

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21373
of Walter H. Benjamin and
Helen M. Benjamin to Appropriate
from an Unnamed Stream in
Yuba County

Decision D 1229

ADOPTED AUG 25 1965

DECISION APPROVING APPLICATION

Walter H. Benjamin and Helen M. Benjamin having filed Application 21373 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 21373 is for a permit to appropriate 3 acre-feet per annum (afa) by storage from November 1 of each year to June 1 of the succeeding year for stockwatering and fire protection from an unnamed stream tributary to Willow Glen Creek thence Dry Creek in Yuba County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 32, T18N, R6E, MDB&M.

2. The applicants propose to construct an earth-filled dam 25 feet in height and 200 feet long, forming a reservoir with a surface area of one-half acre and a capacity of 3 acre-feet.

3. Water is to be available for fire protection purposes, but it is to be beneficially used primarily for stockwatering of 10 cows, 10 goats, and 1 horse. An outlet pipe will be placed through the dam to a stockwatering trough equipped with a float valve to avoid waste. The applicants have no other source of supply except for a well used to supply household water.

4. Protestant Browns Valley Irrigation District diverts to storage from October 1 to June 1 at Virginia Ranch Dam on Dry Creek at a point about $3\frac{1}{2}$ miles downstream from the applicants' point of diversion. Virginia Ranch Reservoir has a maximum capacity of 57,000 acre-feet, dead storage of 2,000 acre-feet, and is to be operated to meet annual gross irrigation and other demands of 36,200 acre-feet. An operation study shows that in a 29-year period there would have been spill in 18 years, in an additional 8 years there would have been enough water for the uses indicated in the study but not enough to cause spill, and in 3 years there would have been shortages.

5. The protestant District has requested that any permit issued to the applicants contain a clause which would require them on June 1 to release all water stored in any

season when the District had not impounded its full entitlement in Virginia Ranch Reservoir. This situation would be expected to occur in only one year out of ten, and in dry years when not much, if any, of the possible 3 acre-feet released by the applicants would be expected to traverse $3\frac{1}{2}$ miles of dry streambed and arrive at Virginia Ranch Reservoir. Therefore, in this situation, water would be lost to beneficial use as a result of operation pursuant to the suggested dry-year stream release requirement, and any benefit to the protestant would be slight or nonexistent.

6. Storage as proposed by the applicants would not materially reduce the quantity of water available to the District which it is entitled to store. There is unappropriated water available to supply the applicants, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21373 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 21373 and all relevant information on file therewith, particularly the report of the field investigation made May 25, 1964;

Application 13130 (Permit 8649); Application 13873 (Permit 9703); Application 19448 (Permit 13768), and Application 20824 (Permit 14678); U. S. Geological Survey, Water Supply Papers, Part 11, "Pacific Slope Basins"; U. S. Geological Survey, 7.5-minute quadrangles covering the area under consideration; "Feasibility Studies of Extensions to Irrigation Facilities for Browns Valley Irrigation District," by Gillett-Harris and Associates, Civil Engineers, and Woodward-Clyde-Sherard and Associates, Consulting Civil Engineers.

ORDER

IT IS HEREBY ORDERED that Application 21373 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3 acre-feet per annum by storage to be collected from about November 1 of each year to about June 1 of the succeeding year. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before June 1, 1966, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1967.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

6. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

8. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access

to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of 1965.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member